

No. 9/6/86-6Lab./2200.—In Pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of M/s Super Rubber Enterprises, 71/3, Mile Stone, G.T. Road, Karnal :—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT
AMBALA

Ref. No. 48 of 1984

• SHRI HIND PAUL SINGH, WORKMAN AND THE MANAGEMENT OF THE M/S. SUPER RUBBER ENTERPRISES, 71/3, MILE STONE, G.T. ROAD, KARNAL.

Present.—

Shri Jang Bahadur, for the workman.

Shri Fakir Chand, for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, has referred dispute between Shri Hind Paul Singh workman and M/s Super Rubber Enterprises, Karnal to this court.

The terms of reference are as under :—

Whether the termination order regarding the services of Hind Paul Singh is according to law and correct, if not to what relief is he entitled?

Workman alleged that he has been serving respondent-management for the last many years. His services were terminated without assigning any cause and reason whatsoever. He further alleged that management before terminating his service did not issue any notice to him. Nor any enquiry was held nor any show-cause notice was ever issued to him. So prayed that his termination is against the provisions of section 25 (F) of the Industrial Disputes Act, 1947, which is against the law and be declared illegal. He has prayed for his reinstatement with continuity in service and with full back wages.

Management contested the reference and contended that workman has got no locus standi to file this claim. It was also contended that the claim application is not maintainable in the present form. The Labour Court has got no jurisdiction to try and entertain the present petition. It was further contended that in fact on the fateful day on which workman submitted his resignation he came to management and voluntarily tendered resignation by saying that the circumstances of his family do not permit him to continue in the service of respondent management. Keeping in view of the prayer of the workman his resignation was accepted and the workman was relieved after making full and final payment of his dues. So it was prayed by the management that the claim which has been filed by the workman is totally incorrect and it be rejected.

Workman filed replication through which he controverted the allegations of the management.

On the pleadings of the parties the following issues were framed for the just decision of the dispute, in question.

Issues :—

1. Whether the termination order of the services of workman in question is legal, if not to what relief?
2. Whether applicant has got no locusstandi file the present claim?
3. Whether application is not maintainable in the present form?
4. Whether this court has got no jurisdiction to try the dispute in question
5. Relief?

I have heard Shri Jang Bahadur Yadav A.R. of workman and Shri Fakir Chand Sharma for the respondent management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under:—

Issue No. 1 :

In support of this issue management examined Shri Ramji Lal General Supervisor of respondent-management as MW-1. He stated that for the last five years he has been working as General supervisor workman came to him along with application Ex-MW-1 which bears signatures of workman. It is a resignation letter which

was voluntarily submitted by the workman. Photostat copy of this letter is Ex-M-2 thereafter, the final accounts of the workman were prepared, the final payment was received by the workman. Photostat copy of the same is Ex-M-3. He further stated that he asked the workman to issue notice to the management or in lieu of that he has to deposit one month pay but the workman made mercy appeal that he is a poor man and it is not possible for him to deposit one month pay or give notice or one month. In the circumstances he recommended the management not to press either for one month notice or one month pay. In those circumstances he was exempted from this provision. In his cross-examination he stated that it is basically correct that the workman was called by him and his resignation was procured by force and Coercion. It was also denied by him that the management was annoyed with the workman for his taking interest in the activities of the union.

Shri Suresh Accountant stated that workman was brought to him by Shri Ramji Lal both of them told him that workman was resigned and his resignation has been accepted on that account he prepared accounts statement pertaining to the dues of workman. Copy of the same is Ex-MW-4 and thereafter the payment of dues of workman was made to him certified copy of receipt is Ex-M-5.

On the other hand workman examined himself as AW-1 and stated that in fact there is a union of the workers of management known as Super Tyer Karamchari Sangh. He is member of that union. He further stated that he used to take active part in the activities of that union. So the management did not like participation of the workman. In the activities of the union and due to that fact he was called in the office of management where three goondas were made to sit. Workman was threatened and thereafter, by force his resignation was procured by the management. In fact no payment regarding his dues was ever made to him.

AW-2 Shri Ram Nain also stated that he submitted an affidavit Ex-A-5 but he did not know what was written in it. He also did not know Shri Nathu Ram when on this affidavit Shri Ram Nain had been identified by Shri A.R. Munghal.

In addition to that workman has tendered into evidence Ex-A-1. A photostat copy of a complaint which was made by the workman to General Secretary Super Tyer Karamchari Sangh regarding the victimisation of the workers by the management. A similar photostat copy of the same is Ex-A-2. Another photostat copy of an application addressed to S.H.O., P.S., Karnal is Ex-A-3 and there is another photostat copy of the order of Conciliation Officer, Panipat which is Ex-A-4.

In view of this oral and documentary evidence led by the parties. It has become clear that case of the management is that workman tendered his resignation voluntarily. On the other hand workman refuted it by saying that his resignation was obtained by the management by force and coercion.

After minutely perusing the evidence available on the file and the conduct of the workman it appears that in fact it is a case of voluntarily tender of resignation of the workman and there is no question of obtaining resignation of workman by the management under force or coercion.

First of all a demand notice is silent about the fact that resignation of the workman was obtained with the help of three goondas who were made to sit in the office of Shri Ramji Lal, General Supervisor who appeared in the witness box as MW-1.

Ex-A-3 copy of letter which the workman stated was despatched by him to S.H.O. P.S., Karnal was not got verified by way of calling S.H.O. P.S. Karnal in the witness box. Moreover, which the S.H.O. did not take any action against management. Then the workman should have complained about his victimisation to S.S.P. Karnal or he should have filed an criminal complaint in the court of C.J.M. Karnal with the help of his Labour Leaders Shri J.B. Yadav or N.R. Munghal who is also a practising lawyer at Karnal. But no such step was taken by the management or by his union. In fact neither the superior Officers of Labour Department, L.C. etc. were not even informed about the cruel attitude of the management towards them.

The copies of documents which have been tendered into evidence and have been exhibited on the file by the management gives a clear picture that the workman voluntarily submitted his resignation to the management which was accepted by the management and thereafter, full and final payment regarding dues of the workman was made by management to the workman.

In view of my above discussions I reach at the conclusion that it is a case of voluntary tender of resignation by the workman to management and not a case of forcing the workman to submit his resignation to the management, so this issue is decided in favour of management against the workman.

Issue No. 2

While discussing issue No. 1 I have specifically mentioned that the evidence adduced by the parties clearly show that it is a case of voluntary tendering of resignation by the workman. So applicant workman has got no locus-standi to file the present claim. So this issue is also answered in the affirmative.

Issue No. 3

The Ld. A.R. of respondent-management argued that the reference is not maintainable. He submitted that the workman should have filed an application under section 33-C of sub-section (2). But I do not agree with the contentions put forward by the learned A.R. of the Management because the workman has opted to challenge the resignation submitted by him and when there is such a challenge by the workman against management. In these circumstances reference can be made by the Government to the Labour court for decision. But on merits I would like to say that since the workman voluntarily tendered his resignation. So it does not lie in the mouth by workman to challenge his resignation through demand notice. So this issue is again decided against the workman, in favour of management.

Issue No. 4

The Labour court has got jurisdiction to try Labour dispute between the parties which are referred to it for decision.

Issue No. 5

For the forgoing reasons on the basis of my issue-wise findings I hold that workman voluntarily tendered his resignation so he has no case against the management no relief is available to him. So I pass award regarding the Industrial Dispute in hand accordingly.

Dated 7th February, 1986

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 366, dated 7th February, 1986.

Forwarded (Four copies) to the Financial Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab/2201.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the management of M/S Super Rubber Enterprises, 71/3, Mile Stone, G.T. Road, Karnal.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA.

Reference No. 42 of 1984.

SHRI VEER BHAN, WORKMAN AND THE MANAGEMENT OF THE MESSRS SUPER RUBBER ENTERPRISES, 71/3, MILE STONE, G.T. ROAD, KARNAL.

Present :

Shri Jang Bahadur, for the workman.
Shri Fakir Chand, for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 has referred dispute between Shri Veer Bhan workman and Messrs Super Rubber Enterprises, Karnal to this Court.

The terms of the reference are as under :—

“Whether the termination order regarding the services of Veer Bhan is according to law and correct, if not, to what relief is he entitled ?”

Workman alleged that he has been serving respondent-management for the last many years. His services were terminated without assigning any cause and reason whatsoever. He further alleged that management before terminating his service did not issue any notice to him. Nor any enquiry was held nor any show-cause notice was

ever issued to him. So prayed that his termination is against the provisions of section 25(F) of the Industrial Disputes Act, 1947 which is against the law and be declared illegal. He has prayed for his reinstatement with continuity in service and with full back wages.

Management contested the reference and contended that workman has got no *locus standi* to file this claim. It was also contended that the claim application is not maintainable in the present form. The Labour Court has got no jurisdiction to try and entertain the present petition. It was further contended that in fact on the fateful day on which workman submitted his resignation he came to management and voluntarily tendered resignation by saying that the circumstances of his family do not permit him to continue in the service of respondent-management. Keeping in view of the prayer of the workman his resignation was accepted and the workman was relieved after making full and final payment of his dues. So it was prayed by the management that the claim which has been filed by the workman is totally incorrect and it be rejected.

Workman filed replication through which he controverted the allegations of the management.

On the pleadings of the parties the following issues were framed for the just decision of the dispute, in question :—

Issues

1. Whether the termination order of the services of workman in question is legal, if not to what relief?
2. Whether applicant has got no *locus standi* to file the present claim?
3. Whether application is not maintainable in the present form?
4. Whether this court has got no jurisdiction to try the dispute in question?
5. Relief.

I have heard Shri Jang Bahadur Yadav, A.R. of workman and Shri Fakir Chand Sharma for the respondent management and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under :—

Issue No. 1

In support of this issue management examined Shri Ramji Lal, General Supervisor of respondent-management as MW-1. He stated that for the last five years he has been working as a General Supervisor. Workman came to him along with application Ex-MW-1 which bears signatures of workman. It is a resignation letter which was voluntarily submitted by the workman. Photostat copy of this letter is Ex-M-2 thereafter, the final accounts of the workman were prepared the final payment was received by the workman. Photostat copy of the same is Ex-M-3. He further stated that he asked the workman to issue notice to the management or in lieu of that he has to deposit one month's pay but the workman made mercy appeal that he is a poor man and it is not possible for him to deposit one month pay or give notice of one month. In these circumstances he recommended the management not to press either for one month notice or one month pay. In those circumstances he was exempted from this provision. In his cross-examination he stated that it is basically incorrect that the workman was called by him and his resignation was procured by force and coercion. It was also denied by him that the management was annoyed with the workman for his taking interest in the activities of the union.

Shri Suresh, Accountant stated that workman was brought to him by Shri Ramji Lal both of them told him that workman has resigned and his resignation has been accepted on that account he prepared accounts statement pertaining to the dues of workman. Copy of the same is Ex-MW-4 and thereafter the payment of dues of workman was made to him certified copy of receipt is Ex-M-5.

On the other hand workman examined himself as AM-1 and stated that in fact there is a union of the workers of management known as Super Tyer Karamchhari Sangh. He is member of that union. He further stated that he used to take active part in the activities of that union. So the management did not like participation of the workman. In the activities of the union and due to that fact he was called in the office of management whereon three goondas were made to sit. Workman was threatened and, thereafter, by force his resignation was procured by the management. In fact no payment regarding his dues was ever made to him.

AM-2 Shri Ram Nain also stated that he submitted an affidavit Ex-A-5 but he did not know what was written in it. He also did not know Shri Nathu Ram when on this affidavit Shri Ram Nain had been identified by Shri A.R. Munjhal.

In addition to that workman has tendered into evidence Ex-A-1. A photostat copy of a complaint which was made by the workman to General Secretary Super Tyer Karamchhari Sangh regarding the victimisation of the workers by the management. A similar photostat copy of the same is Ex-A-2. Another photostat copy of an application addressed to S.H.O., P.S. Karnal is Ex-A3 and there is another photostat copy of the order of conciliation officer, Panipat which is Ex-A-4.

In view of this oral and documentary evidence led by the parties. It has become clear that case of the management is that workman tendered his resignation voluntarily. On the other hand workman refuted it by saying that his resignation was obtained by the management by force and coercion.

After minutely persuing the evidence available on the file and the conduct of the workman appears that in fact it is a case of voluntarily tender of resignation of the workman and there is no question of obtaining resignation of workman by themangement under force or coercion.

First of all a demand notice is silent about the fact that resignation of the workman was obtained with the help of the three goondas who were made to sit in the office of Shri Ram Nain, General Supervisor who appeared in the witness box as MW-1.

Ex-A-3 copy of letter which the workman stated was despatched by him to S.M.O., P.S. Karnal was not got verified by way of calling S.H.O., P.S. Karnal in the witness box. Moreover, when the S.H.O. did not take any action against management. Then the workman should have complained about victimisation to S.S.P. Karnal or he should have filed a criminal complaint in the court of C.J.M., Karnal with the help of his Labour fleader Shri J. B. Yadav or Shri N.R. Munjhal who is also a practising lawyer at Karnal. But no such step was taken by the management or by his union. In fact neither the superior officers of Labour Department, L.C. etc. were even informed about the cruel attitude of the management towards them.

The copies of documents which have been tendered into evidence and have been exhibited on the file by the management gives a clear picture that the workman voluntarily submitted his resignation to the mangement which was accepted by the mangement and thereafter, full and final payment regarding dues of the workman was made by management to the workman.

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Issue No. 2

While discussing issue No. 1 I have specifically mentioned that the evidence adduced by the parties clearly show that it is a case of violuntary tendering of resigation by the workman. So applicant workman has got no *locus standi* to file the present claim. So this issue is also answered in the affirmative.

Issue No. 3

The Id. A.R. of respondant-management argued that the reference is not maintainable. He submitted that the workman should have filed an application under section 33-C of sub-section (2). But I do not agree with the contentions put forwarded by the learned A.R. of the management because the workman has opted to challenge the reisgnation submitted by him and when there is such a challenge by the workman against management. In these circumstances a reference can be made by the Government to the Labour Court for decision. But on merits I would like to say that since the workman voluntarily tendered his resignation. So it does not lie in the month by workman to challenge his resignation through demand notice. So this issue is again decided against the workman, in favour of management.

Issue No. 4

The Labour Court has got jurisidiction to try labour dispute between the parties which are referred to it for decision.

Issue No. 5

For the foregoing reasons on the basis of my issuewise findings I hold that workman voluntarily tendered his resignation so he has no case against the management no relief is available to him. So I pass award regarding the Industrial Dispute in hand accordingly.

Dated the 7th February, 1986.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 267, dated 7th February, 1986.

Forwarded (Four copies) to the Financial Commissioner & Secretary to Government Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.